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Attorneys for Defendants and Claimant  
BARRY COHEN, CHRIS COHEN (aka CHRISTENE COHEN), the F/V POINT LOMA and  
Claimant, F/V POINT LOMA Fishing Company, Inc.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

DEL MAR SEAFOODS, INC.,

Plaintiff,

v.

BARRY COHEN, CHRIS COHEN (aka  
CHRISTENE COHEN), *in personam* and,  
F/V POINT LOMA, Official Number  
515298, a 1968 steel-hulled, 126-gross ton,  
70.8 foot long fishing vessel, her engines,  
tackle, furniture apparel, etc., *in rem*, and  
Does 1-10,

Defendants.

No. C-07-2952-WHA

**DECLARATION OF GWEN FANGER  
IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT OR ALTERNATIVELY,  
FOR PARTIAL SUMMARY  
JUDGMENT**

**Hearing Date: April 10, 2008**

**Time: 8:00 a.m.**

**Place: Courtroom 9, 19<sup>th</sup> Floor**

I, Gwen Fanger, declare as follows:

1. I am an associate in the law firm of Davis Wright Tremaine LLP and our firm  
serves as counsel to Defendants in this lawsuit. I make this declaration in support of Defendants'  
Opposition to Plaintiff's Motion for Summary Judgment or Alternatively, Partial Summary  
Judgment. The facts set forth in this declaration are personally known to me to be true and correct  
and, if called as a witness, I could and would testify to the following:

2. Attached as Exhibit 1 is a true and correct copy of Plaintiff's Verified Admiralty  
and Maritime Complaint filed in this case on June 7, 2007.

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3. Attached as Exhibit 2 is a true and correct copy of the Amended Order on Plaintiff's Ex Parte Application for Appointment of Substitute Custodian in Lieu of U.S. Marshal dated June 7, 2007.

4. Attached as Exhibit 3 is a true and correct copy of the Order Granting Motion to Vacate Order of Arrest dated August 16, 2007.

5. Attached as Exhibit 4 is a true and correct copy of the Promissory Note disclosed by Plaintiff and labeled DMSI 0098-0100.

6. Attached as Exhibit 5 is a true and correct copy of the First Preferred Mortgage disclosed by Plaintiff and labeled DMSI 0101-0110.

7. Attached as Exhibit 6 are true and correct copies of excerpts of the deposition of Barry Cohen taken in this case on January 9, 2008.

8. Attached as Exhibit 7 are true and correct copies of excerpts of the deposition of Joe Roggio taken in this case on December 13, 2007.

9. Attached as Exhibit 8 are true and correct copies of the checks of payments made by Defendants to Plaintiff disclosed by Defendants and labeled COHEN 0004-8.

10. Attached as Exhibit 9 is a true and correct copy of the Assignment of Joint Venture Interest disclosed by Defendants and labeled COHEN 00014-15.

11. Attached as Exhibit 10 is a true and correct copy of Defendants First Supplemental Response to Plaintiff's First Set of Interrogatories.

12. Attached as Exhibit 11 is a true and correct copy of excerpts of the deposition of David Kobak taken in this case on January 8, 2008.

13. Attached as Exhibit 12 is a true and correct copy of Defendants Response to Plaintiff's First Set of Requests for Admissions.

14. Attached as Exhibit 13 is a true and correct copy of an email to Barry Cohen, dated 9/4/07, disclosed by Defendants and labeled COHEN 00056-57.

15. Attached as Exhibit 14 are true and correct copies of settlement sheets from Caito Fisheries, Inc. for fish sales from the F/V Point Loma for trips prior to the arrest disclosed by

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1 Defendants and labeled COHEN 00020, 2225, 28, 33, 36, 39, 41, 43, 47, 51, and 55.

2 16. Attached as Exhibit 15 are true and correct copies of excerpts of the deposition of  
3 Joe Cappuccio taken in this case on December 14, 2007.

4 17. Attached as Exhibit 16 is a true and correct copy of Plaintiff's Responses to  
5 Defendants' Request for Admissions, Set One, served in this case.

6 18. Attached as Exhibit 17 is a true and correct copy of Plaintiff Del Mar Seafoods,  
7 Inc.'s Disclosure of Expert Witness and Exhibits served in this case.

8 19. Attached as Exhibit 18 are true and correct copies of the certificates of insurance on  
9 the F/V Point Loma for December 2003 through December 2008.

10 20. Attached as Exhibit 19 is a true and correct copy of Exhibit 7 to the Deposition of  
11 Barry Cohen taken in this case on January 9, 2008.

12 21. Attached as Exhibit 20 is a true and correct copy of Defendants' Answer to  
13 Verified Admiralty and Maritime Complaint; Verified Counterclaim.

14 22. Attached as Exhibit 21 are true and correct copies of excerpts of the deposition of  
15 Christene Cohen taken in this case on January 1, 2008.

16 23. Attached as Exhibit 22 are true and correct copies of excerpts of the deposition of  
17 Joe Roggio taken in the case *Cohen v. Port San Luis Harbor District*, CV 040897, on November  
18 29, 2005.

19 24. Attached as Exhibit 23 is a true and correct copy of Certificate of Documentation  
20 regarding ownership of the F/V POINT LOMA by F/V Point Loma Fishing Company, Inc.  
21 disclosed by Defendants and labeled COHEN 00001

22 25. Attached as Exhibit 24 is a true and correct copy of the Declaration of Barry Cohen  
23 in Support of Defendants' Motion to Vacate Order of Arrest.

24 26. Attached as Exhibit 25 is a true and correct copy of excerpts of the deposition of  
25 Leonard Cohen taken in this case on January 10, 2008.


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2 DATED this 13<sup>th</sup> day of March, 2008.

  
Gwen Fanger (CSB No. 191161)

Attorney for Defendants BARRY COHEN,  
CHRIS COHEN, F/V POINT LOMA and the  
F/V POINT LOMA FISHING COMPANY,  
INC

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